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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/480,643	01/11/2000	Victor S. Moore	BOC990080US1	4561
52023	7590	12/12/2005		
CUENOT & FORSYTHE, L.L.C. 12230 FOREST HILL BLVD. STE. 171 WELLINGTON, FL 33414			EXAMINER LANEAU, RONALD	
			ART UNIT 3627	PAPER NUMBER

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/480,643

Applicant(s)

MOORE ET AL.

Examiner

Ronald Laneau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,6,9,10 and 14-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,6,9,10 and 14-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. The amendment filed on 10/17/05 has been entered. Claims 1, 3, 5, 6, 9, 10, 14-21 remain pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 5, 6, 9, 10, and 14-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fano (US 6,317,718 B1) in view of Woodward et al (US 6,434,159 B1) and further in view of Carlton-Foss (US 6,647,373).

Fano discloses a system for communication of a proposed transaction in a local area. As seen in the summary of the invention of Fano, an agent running on a Personal Digital Assistant (PDA) equipped with a Global Positioning System (GPS) receiver supports location targeted shopping in an outdoor mall. The agent assists shoppers by providing information about merchandise in which the shopper has expressed an interest. As a shopper strolls through a mall, the system alerts the shopper to merchandise of previously specified categories in the surrounding stores, as well as any cheaper alternatives in the local area. The system of Fano utilizes the user's precise physical location to filter the information it presents. Fano also discloses that alternative shopping is available for products similar but not exact to the one requested, various modules which present an interface that conforms to an object model by

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storing consumer preferences, transmitting directly consumer preferences to individual merchant (col. 4, lines 51-59). In Fano, it is noted to address the need of many shoppers to visit malls or shop generally without a particular destination in mind. FIG. 27 illustrates a display in accordance with a preferred embodiment of the invention. The display operates in a browse mode for use by shoppers as they stroll through the mall. In browse mode the system suggests items of interest for sale in the stores currently closest to the shopper. An item is considered to be of interest if it matches the categories entered in the goals screen. If there are no items of interest, the general type of merchandise sold at that store is displayed, rather than specific items. As the shopper strolls a map displays his or her precise current location in the mall. If an item displayed is selected by the shopper while browsing, the system alerts the shopper to the local retailer offering the same product for the lowest price, or announces the best local price. This search is restricted to the local mall, as that is the assumed radius the shopper is willing to travel.

It is also noted that the agent will support broader aspects of the shopping task, for example, it could operate as bi-directional channels. That is, not only can they provide information to the shopper, but, at the shopper's discretion, they may provide information to retailers as well. In this embodiment, the system indicates a shopper's goals and preferences to a retailer-based agent, who, in turn, responds with a customized offer that bundles service along with the product. Enabling the customization of offers is crucial to gaining the cooperation of retailers who are reluctant to compete solely on price and of value to customers who base their purchases on criteria other than price. While the preferred embodiment focuses on location-based filtering primarily in the context of the shopping task, the current invention provides the basis for

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"physical task support" agents that provide an information channel to people engaged in various tasks in the physical world.

Fano does not disclose a system that communicate directly with local merchants in the local area over a short range wireless communication link but Woodward discloses a short range wireless communications systems wherein the local area is defined by proximity of the mobile wireless device to said short range wireless communication system and physical range of said short range wireless communication system (see claim 1 of Woodward). Furthermore, Woodward discloses a short range wireless communication system that complies with the Bluetooth specification and also has the capability of comparing messages from different merchant for better offer as claimed (fig. 6).

As noted above both Fano and Woodward disclose all of the elements of the claimed invention with the exception of "transmitting information on said first bid to a second merchant" and using a cellular telephone as the wireless device.

However, Carlton-Foss is submitted to demonstrate the well-known, networked based competitive bidding process which includes notification of a first bid (offer) by one merchant (supplier) to a second merchant supplier). Specifically, attention is invited to col. 3, lines 50-68 of Carlton-Foss which teaches a reverse auction engine in communication with the request database and the bid database, and a security manager that allows requestors to designate whether a request shall be generally available and to designate the parties who shall have access to bid on it, and a display system that displays selected information from the request database and the bid database to appropriate requestors and bidders so that the bidders are encouraged to compete in an open marketplace and the requestors may witness the bidding and alter the

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environment of that bidding before and during the time of the competitive bidding process. Furthermore, Carlton-Foss discloses an auction processor 16 and database system 20 that may be in the same computer, or alternatively, the various modules of the reverse auction system may have distributed components separately connected to the network and also, in alternative embodiments, the database system 20 may be reconfigured, separating or combining the modules in configurations other than that shown in fig. 1 (col. 5, lines 54-62).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the short range wireless system of Woodward into the system of Fano because it would provide less extensive network components to support for a network between everyday electronic devices and would allow portability and movability of nodes. And it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the combined systems of Fano and Woodward with a competitive bidding process, such as the one shown in Carlton-Foss. The motivation for such a change in Fano can be seen in column 1, lines 1-4 of Carlton-Foss, which teaches the advantage of this system is that it results in greater value for requestors, as well as greater sales and broader distribution for sellers who are prepared to be competitive in their offerings. By incorporating an auction format, which is available to a wide audience by electronic means, the inventive system results in more bidders, greater response, and hence lower costs and greater value for the requestor.

Regarding claim 14, a displayed bid is essentially a bid sent to other bidders.

Response to Arguments

4. Applicant argues that Fano does not teach or suggest “the use of short range wireless communication system located on premises that is capable of communication of communicating directly with a user over a short range, ad-hoc, wireless communication link. In response to Applicant’s arguments, Woodward is added to teach a short range communications link wherein a merchant can communicate with a user as claimed and having a short range communication determines the closeness of the user to the store terminal since it is only limited to user within the vicinity or proximity of the merchants (see claim 1). Applicant’s arguments about Fano using a GPS technology instead of a short range are moot since Woodward is added to teach these particular limitations. Although, the GPS system of Fano would take it a step further by covering a broader range wireless communication than the short range, ad-hoc system would allow. Applicant further argues using his system in an indoor shopping mall setting where attenuation is not a factor. In response to Applicant’s arguments, it is noted that the features upon which applicant relies (i.e., indoor shopping mall setting) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). As far as the Carlton-Foss reference failing to teach or suggest a system where communications are sent directly between a mobile wireless device and merchants but this limitation is already taught by Woodward. Further, the same reasoning applies to Applicant’s argument regarding the expanding area disclosed in Carlton-Foss. Applicant’s arguments are deemed unpersuasive, claims 1, 3, 5, 6, 9, 10 and 14-21 are finally rejected.

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5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

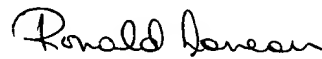
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (571) 272-6784. The examiner can normally be reached on Mon-Fri from 8:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ronald Laneau
Examiner
Art Unit 3627

11/29/05

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